IN THE HIGH COURT OF JUDICATURE AT BOMBAY: NAGPUR BENCH: NAGPUR

CRIMINAL REVISION APPLICATION NO.98 OF 2006

Sheshrao Fusaji Ubnare

versus

The State of Maharashtra

Shri V. M. Deshpande, Advocate for the applicant

Shri Jichkar, A. P. P. for respondent

CORAM: S. R. DONGAONKAR, J.

DATE : 19.9.2006.

Heard Shri V. M. Deshpande, Advocate for the applicant and Shri Jichkar, A. P. P. for the respondent.

In this application under section 397 of Criminal Procedure Code, the applicant seeks to challenge the order dted 13.1.2006 passed by the learned Special Judge, Washim in Special Case No.7/2003 by which the defence counsel was prohibited to ask the qustion from enquiry proceedings i.e. Departmental enquiry. The relevant portion of the earlier cross examination and the order of the learned Additonal Sessions Judge reads thus:

“It was asked to me

The learned counsel for the applkicant has contended that the

relevant questions which are to be put up in respect of the departmental enquiry can ---- considering the nature of the charges leveled agains the applicant and therefore, the cross examination on that point should have bene allowed by the learned Trial Judge. The learned counsel for the non applicant state that as contended that the order of the lower court is correct.

It is thus seen from the order of the Lower Court that no reasons have been assigned to pass the order by the learned trial court.

After considering the circmstances of the case and the charges levelled against the applicant the learned Judge should have allowed the cross examination in detail even if it was lengthy and might be some what irrlevant, in the interest of justice. It is to be noted that in cross examination the defencen would like to have the details of the of the departmental enquiry on record through cross examination and the charges were similar. The record of the departmental enquiry as wella s the evidence therein would be releant for the purpose of cross exmaination in the sessions traal against the accused.

In thesxe circumstances order f the learned trial court does not seem to be correct, peroper and just, on law and therefore, same is quashed and set aside. The learned Trial

Court is hereby directed to allow the cross examination of the witness through defence counsel as if that order is not possed. Revision application stands dispose of as such.

JUDGE

smp.